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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,117	02/07/2002	Steven P. Nowak	42365-00590	2747
33623	7590	10/05/2004	EXAMINER	
MARSH FISCHMANN & BREYFOGLE LLP/OPENWAVE SYSTEM INC. 3151 SOUTH VAUGHN WAY SUITE 411 AURORA, CO 80014			VUONG, QUOCHIEN B	
		ART UNIT	PAPER NUMBER	
		2685	S	
DATE MAILED: 10/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/071,117	NOWAK, STEVEN P.
	Examiner	Art Unit
	Quochien B Vuong	2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 February 2002.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 2/4.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 06/07/02 and 12/18/02 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Specification***

2. The disclosure is objected to because of the following informalities: page 1, lin6, after "filed on March 1, 2001," the phrase --now U.S. Patent No. 6,757,545,-- should be added to updated the Cross-Reference to Related Applications.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 38-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 38-40 recites the limitation "said databases" in claims 38-40, line 1.

There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-9, 11-39, and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Fitch et al. (US 6,321,092).

Regarding claim 1, Fitch et al. (figures 1-2) disclose a method for use in providing location information regarding mobile units in a mobile communications system, said method comprising the steps of: receiving a request for location information for a first Mobile unit, said request identifying said first mobile unit and further including at least a first specification regarding a quality of said requested location information; based on said first specification, selecting at least one location information source capable of providing responsive location information for said first mobile unit; obtaining said responsive location information from said selected location information source, wherein

said responsive information at least substantially conforms to said first specification regarding said quality of said requested location information; and providing said responsive location information to a selected location based on said request (column 2, line 42 – column 3, line 3; column 5, lines 18-49).

Regarding claim 2, Fitch et al. disclose the steps of: receiving a first indication of the general location of said first mobile unit; and using said general location of said first mobile unit in said selecting step to identify location information sources in a proximity of said mobile unit such that one of said identified location information sources may provide said responsive location information (column 2, lines 52-65; column 6, lines 4-18).

Regarding claim 3, Fitch et al. disclose the first indication of the general location of said mobile unit is a standard identifier utilized by said mobile communications system (column 2, lines 52-65; column 6, lines 4-18).

Regarding claim 4, Fitch et al. disclose the standard identifier comprises at least one of a cell identifier and a cell sector identifier utilized by said mobile communications system (column 2, lines 52-54; column 6, lines 4-18).

Regarding claim 5, Fitch et al. disclose the step of selecting further comprises selecting at least one location information source from a plurality of location information sources operable to provide said responsive location information (column 2, line 58 – column 3, line 3).

Regarding claim 6, Fitch et al. disclose the plurality of location information sources comprises one of a database containing responsive location information and

equipment associated with the mobile communications system operable to obtain responsive location information (column 2, line 42 – column 3, line 3; column 4, lines 9-30).

Regarding claim 7, Fitch et al. disclose the step of selecting further comprises utilizing a default specification to select between multiple acceptable location sources, where each of said multiple acceptable location sources is capable of obtaining location information at least substantially conforming to said first specification (column 2, line 42 – column 3, line 3).

Regarding claims 8, Fitch et al. disclose the step of obtaining further comprises invoking said selected location information source to provide said responsive location information (column 2, line 42 – column 3, line 3).

Regarding claim 9, Fitch et al. disclose the specification establishes a priority for selecting said location information source to provide responsive location information for a particular request (column 11, lines 17-27).

Regarding claim 11, Fitch et al. disclose the specification specifies a particular type of location information source for use in providing said responsive location information (column 11, lines 9-45).

Regarding claim 12, Fitch et al. disclose the specification regarding a quality of said requested location information is related to a geographical accuracy for said responsive location information (column 11, lines 32-45).

Regarding claim 13, Fitch et al. disclose the specification regarding a quality of said requested location information is related to an acceptable cost associated with said responsive location information (column 10, lines 33-43).

Regarding claim 14, Fitch et al. disclose the specification regarding a quality of said requested location information is related to an allowable age of said responsive location information (column 10, lines 37-43).

Regarding claim 15, Fitch et al. disclose the specification regarding a quality of said requested location information is related to acceptable response times to provide said responsive location information (column 11, lines 9-45).

Regarding claim 16, Fitch et al. disclose the receiving step further comprises correlating said specification to a corresponding value associated with said location information sources (column 10, line 58 – column 11, line 8)

Regarding claim 17, Fitch et al. disclose the correlating step involves correlating said specification to an average value associated a plurality of location information sources (column 3, lines 25-47).

Regarding claim 18, Fitch et al. disclose the correlating step involves correlating said specification to a first value associated with an individual location information source (column 5, lines 18-49).

Regarding claim 19, Fitch et al. disclose the selecting step comprises consulting at least a first database in which information associated with said location information sources is stored (column 2, line 58 – column 3, line 3).

Regarding claim 20, Fitch et al. disclose the selecting step further comprises consulting at least a first database in which information regarding location determining abilities of said position location information sources are stored such that only location information sources capable of providing said responsive location information are selected (column 2, line 58 – column 3, line 3).

Regarding claim 21, Fitch et al. (figures 1-2) disclose a method for use in providing location information regarding mobile units in a mobile communications system, said method comprising the steps: receiving a request for requested location information for a first mobile unit; obtaining information regarding a general location of said first mobile communication unit; based on said general location of said first mobile unit, identifying at least first and second sources operable to provide responsive location information regarding said first mobile unit in said general location; selecting one of said first and second sources to provide said responsive location information; obtaining said responsive location information from said selected location information source; and providing said responsive location information to a selected location based on said request (column 2, line 42 – column 3, line 3; column 5, lines 18-49).

Regarding claim 22, Fitch et al. disclose the steps of: receiving at least one specification regarding a quality of said location information in said request; and using said specification in said selecting step to select at least one of said first and second sources to provide responsive location information (column 2, lines 52-65)

Regarding claim 23, Fitch et al. disclose the information regarding the general location of said mobile unit is a standard identifier utilized by said mobile communications system (column 2, lines 52-65; column 6, lines 4-10).

Regarding claim 24, Fitch et al. disclose the standard identifier comprises at least one of a cell identifier and a cell sector identifier utilized by said mobile communications system (column 2, lines 52-54; column 6, lines 4-18).

Regarding claim 25, Fitch et al. disclose the step of identifying at least first and second information sources operable to provide responsive location information includes the step of utilizing said general location information for searching a database to determine location information sources operable to provide responsive location information (column 2, line 52 - column 3, line 3; column 3, lines 25-47).

Regarding claim 26, Fitch et al. disclose the step of identifying at least first and second information sources operable to provide responsive location information includes the step of searching a database for existing location information regarding said first Mobile unit that is responsive to said request (column 2, line 52 - column 3, line 3; column 3, lines 25-47).

Regarding claim 27, Fitch et al. (figures 1-2) disclose a method for use in providing location information regarding mobile units in a mobile communications system, said method comprising the steps: establishing an interface allowing an application to provide requests for location information regarding a first mobile unit from a location platform, said interface defining a number of information fields that may be included in said requests; receiving a first request for location information at said

platform via said interface, wherein said first request includes at least one specification regarding a quality of said requested location information, said specification being included in one of said information fields; based on said specification, obtaining responsive location information regarding said first mobile unit; and providing said responsive location information to a selected location based on said request (column 2, line 42 – column 3, line 3; column 5, lines 18-49).

Regarding claim 28, Fitch et al. disclose the step of establishing an interface comprises defining a number of messages that are useable by a user to selectively request location information for said mobile unit (column 10, lines 33-43; column 11, lines 9-45).

Regarding claim 29, Fitch et al. disclose the plurality of information fields includes a field for use in specifying at least one of a priority of said request, a geographical accuracy of said location information, a cost associated with said location information, an age of said information and a response time for said location information (column 10, lines 33-43; column 11, lines 9-45).

Regarding claim 30, Fitch et al. disclose the step of obtaining comprises identifying at least first and second information sources operable to provide responsive location information (column 3, lines 25-47).

Regarding claim 31, Fitch et al. disclose the step of obtaining includes searching at least a first database for existing location information that is responsive to said request (column 2, line 52 - column 3, line 3; column 3, lines 25-47).

Regarding claim 32, Fitch et al. disclose the step of obtaining includes accessing at least a first database to correlate capabilities of location information sources in the mobile communications system with said specification (column 2, line 52 - column 3, line 3; column 3, lines 25-47).

Regarding claim 33, Fitch et al. (figures 1-2) disclose an apparatus for providing location information regarding mobile units in a mobile communications system, said apparatus comprising: a processing system in communication with a plurality of location information sources associated with said mobile communications system and at least one application for implementing at least one function based on mobile unit location; portal logic, supported by said processing system, for receiving location information requests regarding at least a first mobile unit, wherein said portal logic is operable to receive a first location request containing one or more specifications regarding a quality of said location information; selection logic, supported by said processing system, for identifying and selecting at least one of said location information sources operable to provide responsive location information based on said one or more specifications; retrieval logic, supported by said processing system, for obtaining said responsive location information from said selected location information source; and said portal logic further operable to provide said responsive location information to a location based on said first request (column 2, line 42 – column 3, line 3; column 4, lines 9-30; and column 5, lines 18-49).

Regarding claim 34, Fitch et al. disclose the portal logic is further operative to obtain a first indication of the general location of said first mobile unit from said location request (column 2, lines 52-65).

Regarding claim 35, Fitch et al. disclose the selection logic is further operable to utilize said general location of said first Mobile unit in said identifying and selecting said location information sources operable to provide said responsive location information (column 2, lines 52-54; column 6, lines 4-10).

Regarding claim 36, Fitch et al. disclose the selection logic is operable to access one or more of databases to provide said responsive location information (column 2, line 42 – column 3, line 3; column 4, lines 9-30).

Regarding claim 37, Fitch et al. disclose the selection logic is operable to utilize said general location information to search said one or more of databases (column 2, line 42 – column 3, line 3).

Regarding claim 38, Fitch et al. disclose the databases comprise a database containing location information capabilities for location information sources associated with said mobile communications system (column 2, line 42 – column 3, line 3).

Regarding claim 39, Fitch et al. disclose the databases comprise a location cache operable to store location information for Mobile units operating in the mobile communication system (column 2, line 42 – column 3, line 3).

Regarding claim 41, Fitch et al. disclose the portal logic defines a number of information fields for standardizing location communications between said processing system and said application (column 5, lines 17-49; column 11, lines 9-31).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 10 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitch et al.

Regarding claim 10, Fitch et al. disclose the specification establishes a priority for selecting said location information source to provide responsive location information for a particular request (column 11, lines 17-27). Fitch et al. do not specifically disclose the priority is established by a last in first out command. However, the examiner takes Official notice that priority established by a last in first out is well known in the art. Therefore, it would have been obvious for one having ordinary skill in the art at the time

the invention was made to adapt the well known last in first out command to the priority of Fitch et al. as a matter of system design choice.

Regarding claim 40, Fitch et al. disclose a memory and database for storing location information of the mobile station (column 4, lines 9-30; column 8, lines 23-24). Fitch et al. do not specifically disclose the database comprises a home location register database associated with said mobile unit. However, the examiner takes Official notice that database comprise a home location register database associated with a mobile unit are well known in the art. Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt a home location register database to the database of Fitch et al. in order to store and update the location of the mobile phone.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kauppi (US 5,832,381) disclose location updating in a cellular radio network.

Bell et al. (US 6,680,998) disclose providing private network information during emergency.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (703) 305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QUOCHIEN B. VUONG  
PRIMARY EXAMINER

Quochien B. Vuong  
Sep. 28, 2004.